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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/308,461	05/18/1999	DOROTHEA LAMPE	P99.0946	6212

7590 10/02/2003

MORRISON & FOERSTER, LLP  
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SUITE 300  
MCLEAN, VA 22102

EXAMINER

DO, NHAT Q

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 10/02/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/308,461

Applicant(s)

LAMPE ET AL.

Examiner

Nhat Do

ND

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

1. The indicated allowability of claims 8-10 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 6,028,840 to Worster. Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,028,840 to Worster in view of U.S. Patent No. 5,982,748 to Yin et al.

Regarding to claim 8, Worster disclose a device in figure 8 performing:

Providing ATM virtual connections (Col. 11, line 65-col. 12, line 20);

Assigning incoming connections to variable bit rate (VBR) connections (a first class connections) depending on QoS parameters (result of predetermined analysis) (Col. 12, lines 1-20). The VBR connections are subdivided into connection classes (sub-classes). Analysis is performed in sequence on each connection class until the incoming connection is assigned to a connection (Fig. 9)

Worster fails to disclose assigning the incoming connection to a first or a second class depending on the result of predetermined analysis. Yin et al disclose assigning the incoming connection to a VBR (first) or a CBR (second) connection depending on the connection request

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(result of predetermined analysis) (Figure 2). A skilled artisan would have been motivated to modify the device of Worster so that it assigns the incoming connection to a CBR or VBR connection in order to provide either CBR or VBR connection depending on the requirement of a particular data flow as taught by Yin et al (Col. 1, lines 39-55). Therefore, it would have been obvious to a person having ordinary skill in the art by the time the invention was made to assign the incoming connection to a first or a second class depending on the result of predetermined analysis.

Regarding to claim 9, the parameters es, and C are parameters of connection line.

Regarding to claim 10, Worster discloses the parameters es are updated (Col. 11, lines 20-25).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhat Do whose telephone number is (703) 305-5743. The examiner can normally be reached on 8:30 AM - 5:30 PM Monday - Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Nhat Do  
Examiner  
Art Unit 2663

ND

September 23, 2003

  
MELVIN MARCELO  
PRIMARY EXAMINER